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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,226	02/24/2000	Jeffrey L. Huckins	INTL-0270-US-(P7593)	5664
7590 09/22/2004			EXAMINER	
Timothy N Trop Trop Pruner & Hu PC 8554 Katy Freeway Suite 100 Houston, TX 77024			HOYE, MICHAEL W	
			ART UNIT	PAPER NUMBER
			2614	
DATE MAILED: 09/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/512,226	Applicant(s) HUCKINS, JEFFREY L.	
	Examiner Michael W. Hoye	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/1/04.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-28 is/are rejected.
- 7) ☒ Claim(s) 1-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of the Appeal Brief filed on 7/1/04, PROSECUTION IS HEREBY REOPENED. Claims 1-13 are objected to and a rebuttal to claims 26-28 of the Appeal Brief is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

As to claims 1-13, see the remarks made under the Claim Objections section below.

As to claims 26-28, more specifically independent claim 26, the Applicant argues on page 9 of the Appeal Brief that, "nowhere does Arsenault disclose storage "to store a template for said first announcement, said template formed before said connection information is available." The Applicant further argues that, "nowhere does the portion of Arsenault cited by the Examiner teach storage of a template for a first announcement including connection information."

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In response, the Examiner respectfully disagrees with the Applicant because the data server of Arsenault comprises the claimed "storage...to store a template for said first announcement" because the data server already includes a template/place holder as part of it's intended use or design for receiving the map information that is provided to it (col. 17, lines 45-55). The place holder has already been formed before the connection information is made available.

### *Specification*

2. The abstract of the disclosure is objected to because on page 14, line 16, the "tap\_ID (0x00)" should be --tap\_ID (0x0000)-- as shown in Fig. 3. Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

3. Claims 1-2, 9-11, 26 and 28 are objected to because of the following informalities:

Regarding claims 1-2 and 10-11, the claimed, "first announcement including connection information," and the claimed, "second announcement including a content description," appear to be out of order, since the claimed, "second announcement [is] transmitted before any assignment of connection has been determined for said content," (see claims 1 and 10) and the method includes, "transmitting said first announcement after transmitting the second announcement" (see claims 2 and 11). Therefore, since the "second announcement" is transmitted first and the "first announcement" is transmitted second or after the second announcement, it would seem logical that the claimed "second announcement" should be

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described as the first announcement and the claimed “first announcement” should be described as the second announcement respectively.

Claims 26 and 28 have similar first and second announcement issues as described above for claims 1-2 and 10-11 respectively.

In addition to, regarding claims 1 and 10 respectively, the claimed “transmitting content” (see claim 1) or the similarly claimed “transmit content” (see claim 10) as currently claimed occurs prior to the claimed transmitting a first announcement including connection information for said content. This raises the question of, “How does a method or system transmit content without first assigning a connection?” For example, in order to transmit content a system would need to use some sort of connection information, such as a URL, an IP address, a channel frequency, or a PID (program or packet identifier). In the art of interactive audio and/or video distribution, the current wording of the claims implies that the “content” (which includes, “any type of audio and/or video data that may be transmitted or distributed to one or more receiving sites for presentation to viewers and/or listeners” and “content may be an event or television program,” see page 5, line 23 – page 6, line 3 and page 9, lines 13-14 of the specification) is transmitted without a connection being assigned first, or, in other words, the content is transmitted to no one, or no receiver, since the receiver(s) do not have information on how to receive the transmitted content. At some point prior to or at the same time of the transmitting content, information or a “content description” for said content is transmitted, so there is now information about the content being transmitted, and eventually, the receiver(s) are given the information on how to receive the content or the “connection information”. In a practical example of the current wording of claims 1 and 10, content is transmitted to no one or no

receiver, since there is no connection information, a viewer or user is then given information about the content that they are unable to receive since there is no connection information, and then the receiver or user/viewer is eventually given the connection information on where to find the content. Therefore, a user/viewer could potentially miss several minutes of a program or show that is already being transmitted to the receiver(s). The Examiner would kindly appreciate that claims 1 and 10 be constructed in a manner that would more accurately reflect the inventive aspect(s) of the invention as described in the Applicant's specification, such as on page 9, line 15 – page 10, line 10 of the specification, where, "the content description information may be broadcast as a separate announcement well in advance of the actual connection information... by uncoupling these two components of signaling information, the content description may be transmitted before it is known precisely how the connection to the content will actually be implemented" (also see page 13, line 12 – page 14, line 9 of the Applicant's specification).

Regarding claim 9, the claimed "said connection information includes transmitting a data program guide" in lines 1-2 of claim 9 appears to be referring to the claimed "content description" as previously described in claim 1 and in the specification on page 8, line 26 – page 9, line 7, where the "data program guide (DPG)" is associated with the "content description". Appropriate correction is required.

4. Claims 2 and 11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. According to claims 2 and 11, the "second

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announcement” including a “content description” for said content...[is] transmitted before any “assignment of connection” (or “first announcement including connection information”) has been determined for said content. Therefore, the claimed, “transmitting said first announcement after transmitting the second announcement,” as described in claims 2 and 11, is redundant to what has already been claimed in claims 1 and 10 respectively.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Arsenault et al (EP 0 828 390 A2).

As to claim 26, the claimed processor is met by processor 15 as shown in Figure 1 (see col. 13, lines 36-50). The claimed transmitter coupled to said processor to transmit a first and second announcement and video content is met by uplink antenna 16 as shown in Figure 1 which transmits the first and second announcements and video content (see col. 12, line 43 – col. 13, line 12). Regarding the claimed “announcement” or “public notification or declaration”, the Arsenault et al reference clearly contemplates both public and private networks, as shown by the various networks 13 in Fig. 1 as described above, where an antenna or terrestrial TV network is representative a public network and a cable TV network represents a private network respectively. More specifically, the claimed transmitting a first announcement including

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connection information for said content is met by map update and control information (which is the “announcement including connection information”) that is provided to the processor 15 (Fig. 1) for inclusion in the output signal 27 for transmission to the receiving station(s) 12 (see col. 13, line 36 – col. 14, line 11, specifically col. 14, lines 8-11). The claimed transmitting a second announcement including a content description for said content is met by input data streams 20, which may comprise video information, audio information, data services of various types (e.g. multimedia, database services, software delivery, e-mail, etc.), or other information which is desired for transmission to one or more users (e.g. subscribers) as shown in Figure 1 (see col. 13, lines 1-6, also see input 26 and program information 96 in Fig. 7). The receiver(s) or IRD 34 (Fig. 1) receive the upcoming program content of the various service providers, such as program guide (PG) information, which has already been transmitted (col. 25, lines 18-40). The Arsenault et al reference clearly teaches, “a processor-based system comprising storage” as shown by data server/storage 75 in Fig. 3. The claimed, “to store a template (or place holder - as defined in the disclosure on pg. 11, lines 11-12 and pg. 15, line 11) for said first announcement (connection information),” is met by the data server of Arsenault, which comprises the claimed “storage...to store a template for said first announcement,” because the data server already includes a template/place holder as part of it’s intended use or design for receiving the map information that is provided to it (col. 17, lines 45-55). The place holder has already been formed before the connection information is made available. The data server (which comprises the storage/place holder for map information provided) provides the necessary (connection/map) information at appropriate times (col. 17, lines 45-55) to the broadcast resources, which meets



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the claimed said template (or place holder) formed before said connection information is [made] available.

As to claim 27, the claimed system of claim 26 wherein said transmitter transmits an identifier that may be used to link said first and second announcements is met by the program identifier in 96 of Fig. 7 and Map Select ID 98 (col. 25, line 18 – col. 26 line 2). See claim 5 for additional support for the rejection of the claim.

As to claim 28, the claimed system of claim 26 wherein said transmitter transmits said second announcement before said first announcement is met by content and/or schedule information which must be supplied in advance of the connection information (see col. 14, lines 12-21).

#### ***Allowable Subject Matter***

7. Claims 1-2, 9-11, 26 and 28 are objected to as previously described above. Claims 3-8 and 12-13 are also objected to due to their dependency to independent claims 1 and 10 respectively. Claims 1-13 would be allowable subject to overcoming the objections as described in the corresponding sections above.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

#### ***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is (703) 305-6954. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

**Any response to this action should be mailed to:**

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to customer service whose telephone number is **(703) 308-HELP**.

Michael W. Hoye  
September 18, 2004



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600